IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 9619 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ASRAFBHAI SIDIKBHAI NAVIWALA - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR CL SONI for Applicant(s) : 1,
MR MR MENGDEY, APP for Respondent(s) : 1,
MR SANDEEP N BHATT for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 11/10/2007

ORAL JUDGMENT

In the present petition, the petitioner has prayed for quashing of complaint dated 20.9.2001 being criminal case No.6769/01 filed before the

learned Judicial Magistrate, First Class, Rajkot. The case of the complainant is that the petitioner herein and co-accused had made certain statements which were defamatory.

2. This petition is sought to be sustained solely on the ground that on identical set of facts, a criminal complaint bearing Case No.8/2000 came to be dismissed for want of prosecution by an order dated 12.6.2001. It is, therefore, submitted that fresh complaint should not have been filed.

3. Having heard the learned advocates appearing for the parties, I find that no case is made out for interference. It is not in dispute that the earlier complaint came to be dismissed for want of prosecution and the petitioner was not acquitted on merits. That being so, the complainant cannot be precluded from pursuing subsequent complaint as held by this Court in the case reported in 2001 (1) GLH 737. The fact that the criminal revision filed by the complainant challenging the dismissal of the complaint is still pending need not be a deterrence since the counsel for the complainant has stated that the said revision application will be withdrawn.

4. In view of the above position, the petition is dismissed. Rule is discharged. Interim relief is vacated.

(Akil Kureshi, J.)

(vjn)